REMARKS

Claims 1-3, 5-16, 18-28, 30-41, and 43-52 are pending in the present application. Claims 4, 17, 29, and 42 were canceled. Claims 1, 14, 26, 39, 51, and 52 were amended. Reconsideration of the claims is respectfully requested.

I.   35 U.S.C. § 102, Anticipation

The examiner has rejected claims 1-3, 5, 7-10, 12-16, 18, 20-23, 25-28, 30, 32-35, 37-41, 43, 45-48, and 50-52 under 35 U.S.C. § 102 as being anticipated by Hubbard, U.S. Patent No. 6,654,783 ("*Hubbard*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case, each and every feature of the presently claimed invention is not identically shown in the cited reference as arranged in the claims.

Independent claim 1 of the present invention, which is representative of independent claims 14, 26, 39, 51, and 52, with regard to similarly recited subject matter, reads as follows:

> 1.   A method of providing a subscription computing service to a subscriber computing system, comprising:
>   initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies services to be provided to a subscriber, and wherein the services to be provided to the subscriber are identified in a service agreement;
>   determining if one or more spare resources are available by requesting system operation information from the subscriber computing system;
>   allocating a portion of the one or more spare resources if one or more spare resources are available; and

issuing an instruction to the subscriber computing system to
perform at least one operation using the allocated portion of the one or
more spare resources to thereby provide the subscription computing
service based on the subscription computing information.

With regard to claim 1, the examiner stated:

As per claim 1, Hubbard teaches a method of providing a subscription
computing service (fig. 1A) to a subscriber computing system (fig. 1,
client system 108, 110 and 112), comprising:
    initiating the subscription computing service based on subscription
computing information (workload and tasks are sent clients based on the
determination of the relative capabilities of the client systems. Depending
upon the workload project results are provided to customers (subscribers)
col. 6, lines 22-61; col. 7, lines 10-50 and col. 16, lines 10-36;
    determining (relative capabilities of the client system is
determined) if one or more spare resources are available in the subscriber
computing system [capabilities such as processing power, disk storage
capacity, communication types and other capabilities that are available
within the client system col. 7, lines 1-9 and col. 7, lines 46-62 col. 8, lines
1-11 and col. 16, lines 10-36];
    allocating a portion of the one or more spare resources if one or
more spare resources are available [client systems allow its capabilities to
be utilized by the distributed processing system col. 5, lines 11-35 and col.
7, lines 1-9]; and
    issuing an instruction to the subscriber computing system to
perform at least one operation using the allocated portion of the one or
more spare resources to thereby provide the subscription computing
service [workloads to be performed are selected for client systems. The
workloads are controlled through an operational code. A capability vector
database keeps track client systems and their capabilities col. 7, lines 1-13
and lines 63 to col. 8, line 11 and col. 16, lines 10-36].

Final Office Action, dated May 6, 2005, pages 5 and 6.

Hubbard teaches "a method for indexing network site content with a distributed

parallel processing system that identifies the capabilities of distributed devices connected

together through a wide variety of communication systems and networks and utilizes

those capabilities to provide incentives to the distributed devices and to organize, manage

and distribute project workloads to the distributed devices." *Hubbard*, Col. 2, line 64 –

Col. 3, line 4. In other words, *Hubbard*:

    ...contemplates the identification of the capabilities of distributed devices
    connected together through a wide variety of communication systems and

> networks and the aggregation of these capabilities to accomplish
> processing, storage, broadcasting or any other desired project objective.
> For example, distributed devices connected to each other through the
> Internet, an intranet network, a wireless network, or any other network
> may provide any of a number of useful capabilities to third parties once
> their respective capabilities are identified, organized, and managed for a
> desired task.

Hubbard, Col. 4, lines 18-28.

Also, "[a]s indicated above, to encourage owners or users of client systems to allow their system capabilities to be utilized by the control system, an incentive system may be utilized." *Hubbard*, Col. 11, lines 7-9. Consequently, *Hubbard* teaches a method for indexing and managing available client resources in a distributed device environment to accomplish tasks for third party customer systems and for providing client incentives to encourage clients to allow the use of their systems for the benefit of third party customers.

In contrast, claim 1 of the present invention recites a method of providing a subscription computing service to a subscriber computing system. The subscription computing service is provided by determining if one or more spare resources are available by requesting system operation information from subscriber computing systems and allocating a portion of the one or more spare resources to perform at least one operation to provide the subscription computing service as recited in claim 1. In other words, the present invention allows customer or subscriber resources in a peer-to-peer computation model to perform subscription computing tasks for other customer subscribers. In *Hubbard*, client resources in a distributed device model perform tasks for third party customers. For example, *Hubbard* teaches client distributed devices connected together to provide processing capabilities in response to requests from third party customer systems, as shown in Figures 1A and 1B of *Hubbard* below:
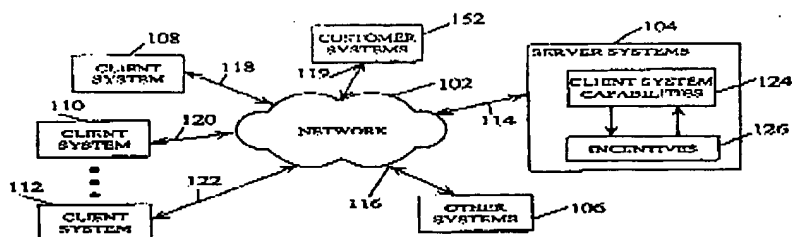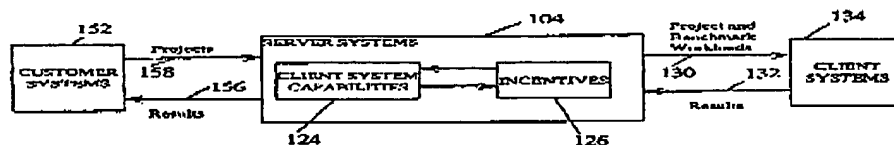
FIG. 1A

FIG. 1B

As *Hubbard* Figures 1A and 1B illustrate above, third party customer systems 152 send projects 158 and 130 to client systems 134 and client systems 134 send back results 132 and 156. Client systems 134 are the distributed devices referenced in the above cited passages from *Hubbard*. Client systems 134 in *Hubbard* do not request any services to be performed, but merely perform services for the third party customers. Thus, *Hubbard* teaches that only third party customers benefit from the client distributed devices' task performance. Also, third party customer systems 152 in *Hubbard* do not provide processing capabilities or subscription computing services to other third party customer systems in a peer-to-peer customer subscription network as is recited in claim 1 of the present invention. Therefore, *Hubbard* fails to teach a method of providing a subscription computing service to a subscriber computing system as recited in claim 1 of the present invention.

Hubbard also fails to teach initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies services to be provided to a subscriber as recited in amended claim 1. In other words, the subscription computing service recited in claim 1 performs subscription computing tasks for the subscription computing system based on subscription computing information. However, *Hubbard's* third party customer systems do not request a subscription computing service based on subscription computing information. As Figure

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1B depicts above, *Hubbard* merely teaches that third party customer systems send projects to a server and then the server sends the projects to the client distributed devices to process the projects without regard to customer subscription information that would identify what services are to be provided to the customer.

In *Hubbard*, the control system provides incentives to the distributed device owners based on workload completion or system capabilities. *Hubbard*, Col. 11, lines 10-19. In other words, client incentives provide the rationale for the client distributed devices to perform the projects for the third party customer systems in *Hubbard*. In essence, the control system in *Hubbard* is paying the owners of the client distributed devices for allowing the third party customer systems to perform tasks on the client devices. Thus, the client distributed devices perform the third party customer projects based on incentives and not based on subscription information. Hence, *Hubbard* fails to teach initiating a subscription computing service based on subscription computing information that identifies the tasks or services to be provided to the subscriber or customer as recited in amended claim 1.

Moreover, *Hubbard* fails to teach that the services provided to the subscriber are identified in a service agreement as further recited in claim 1 of the present invention. In the present invention, the subscription computing information identifies the services or projects to be provided to the subscriber or customer and the services provided to the subscriber are identified in a service agreement as recited in claim 1. *Hubbard* makes no reference to using a service agreement to identify the services to be provided to the third party customer systems. Therefore, *Hubbard* fails to teach that the provided third party customer system services are identified in a service agreement as recited in amended claim 1.

Additionally, *Hubbard* fails to teach that spare resource availability is determined by requesting system operation information from the subscriber computing system, as recited in claim 1 of the present invention. Rather, *Hubbard* teaches that:

> ...along with receiving the workload, the client system will also receive an agent that manages the completion of the workload. This agent may be software that is customized for the particular computer system and processing capabilities of the client system.... When the agent determines that there is unused processing or other capabilities, the agent may take

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advantage of it. For example, if the user is using a word processing
application to create a document, little processing power is being utilized
by the word processing program, leaving the computer's CPU and video
processor underutilized. Thus, the agent could execute commands to these
processors during dead cycles. In this way, the agent may facilitate the
completion of workload processing in a reduced time.

Hubbard, Col. 7, line 63 – Col. 8, line 12.

The paragraph above demonstrates that the embedded agent in the client device
automatically manages the unused resources of the client system. This automatic
resource management by an embedded agent in the client device is not analogous to the
present invention recited in claim 1 that determines spare resource availability by
requesting system operation information from the subscriber computer system. In
Hubbard, no client system resource availability request is made; the embedded agent in
the client system performs the process automatically for the third party customer system.
Thus, in *Hubbard* client resources are used without a request for client system operation
information from the client device because the embedded agent has already established
client resource availability for third party customer projects. Consequently, *Hubbard*
fails to teach that spare resource availability is determined by requesting system operation
information from the subscriber computing system, as recited in claim 1.

Therefore, in view of the above arguments, the indexing service taught in
Hubbard, which identifies the capabilities of client distributed devices and manages
projects to the client distributed devices is distinguishable from the subscription computing
service of the present invention recited in claim 1, which is based on subscription
computing information. Therefore, *Hubbard* does not identically teach each and every
element recited in amended claim 1 of the present invention. Accordingly, the rejection
of independent claims 1, 14, 26, 39, 51, and 52 as being anticipated by *Hubbard* has been
overcome.

Thus, amended independent claims 1, 14, 26, 39, 51, and 52 are in condition for
allowance. As a result, claims 2, 3, 5, 7-10, 12, 13, 15, 16, 18, 20-23, 25, 27, 28, 30, 32-
35, 37, 38, 40, 41, 43, 45-48, and 50 are dependent claims depending on independent
claims 1, 14, 26, 39, respectively. Consequently, claims 2, 3, 5, 7-10, 12, 13, 15, 16, 18,
20-23, 25, 27, 28, 30, 32-35, 37, 38, 40, 41, 43, 45-48, and 50 also are allowable, at least

by virtue of their dependence on allowable claims. Therefore the rejection of 1-3, 5, 7-10, 12-16, 18, 20-23, 25-28, 30, 32-35, 37-41, 43, 45-48, and 50-52 as being anticipated by *Hubbard* has been overcome.

II.   35 U.S.C. § 103, Obviousness, Dependent Claims 6, 19, 31, and 44

The examiner has rejected dependent claims 6, 19, 31, and 44 under 35 U.S.C. § 103 as being unpatentable over *Hubbard* in view of Lettvin, U.S. Patent No. 5,559,960 ("*Lettvin*"). This rejection is respectfully traversed.

The examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be prima facie obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The examiner has not met this burden because all of the features of these claims are not found in the cited references as believed by the examiner. Therefore, the combination of *Hubbard* and *Lettvin* would not reach the presently claimed invention in these claims.

As shown in Section I above, *Hubbard* does not teach or suggest all of the claim limitations recited in amended independent claim 1. In particular, *Hubbard* does not teach or suggest providing a subscription computing service to a subscription computing system based on subscription computing information contained in a service agreement that identifies the services to be provided to the subscriber as recited in amended claim 1 of the current invention. This feature also is not taught or suggested in *Lettvin*.

Therefore, since neither *Hubbard* nor *Lettvin* teach or suggest providing a subscription computing service to a subscription computing system based on subscription computing information contained in a service agreement that identifies the services to be provided to the subscriber as recited in independent claim 1, then the combination of *Hubbard* and *Lettvin* cannot teach or suggest this recited feature. As a result, claim 6 of the present invention also is allowable at least by virtue of its dependence upon an allowable claim. Claims 19, 31, and 44 include features similar to those in claim 6. Accordingly, the rejection of claims 6, 19, 31, and 44 as being unpatentable over *Hubbard* in view of *Lettvin* has been overcome.

III.   **35 U.S.C. § 103, Obviousness, Dependent Claims 11, 24, 36, and 49**

The examiner has rejected dependent claims 11, 24, 36, and 49 under 35 U.S.C. § 103 as being unpatentable over *Hubbard* in view of Doyle, U.S. Patent No. 6,009,455 ("*Doyle*"). This rejection is respectfully traversed.

As shown in Section I above, *Hubbard* does not teach or suggest all of the claim limitations as recited in amended independent claim 1. In particular, *Hubbard* does not teach or suggest providing a subscription computing service to a subscription computing system based on subscription computing information contained in a service agreement that identifies the services to be provided to the subscriber as recited in amended claim 1 of the current invention. This feature also is not taught or suggested in *Doyle*.

Therefore, since neither *Hubbard* nor *Doyle* teach or suggest providing a subscription computing service to a subscription computing system based on subscription computing information contained in a service agreement that identifies the services to be provided to the subscriber as recited in independent claim 1, then the combination of *Hubbard* and *Doyle* cannot teach or suggest this recited feature. As a result, claim 11 of the present invention also is allowable at least by virtue of its dependence upon an allowable claim. Claims 24, 36, and 49 include features similar to those in claim 11. Accordingly, the rejection of claims 11, 24, 36, and 49 as being unpatentable over *Hubbard* in view of *Doyle* has been overcome.
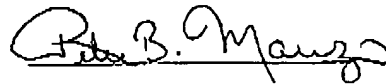
IV.   Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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